

BEFORE THE ARBITRATOR

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In the Matter of the Arbitration :
of a Dispute Between :
CITY OF GREEN BAY : Case 201
and : No. 44264
CITY OF GREEN BAY FIRE FIGHTERS, : MA-6229
LOCAL 141, INTERNATIONAL :
ASSOCIATION OF FIREFIGHTERS :
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Appearances:
Mr. Mark A. Warpinski, Assistant City Attorney, on behalf of the City.
Mr. Donald Vander Kellen, on behalf of the Union.

ARBITRATION AWARD

The above-entitled parties, herein the City and Union, are privy to a collective bargaining agreement providing for final and binding arbitration before a Wisconsin Employment Relations Commission staff arbitrator. Pursuant thereto, I heard this matter on November 7, 1990 in Green Bay, Wisconsin. Pursuant to the request of the parties, and following oral argument, I issued a bench decision which this Award augments.

ISSUE

Under the August 23, 1988 Memorandum of Understanding between the parties, was the City required to grant ten (10) days off with pay in 1989 and eight (8) days off with pay in 1990 to Grievants Tom Tilkus and Cecil Bailey?

DISCUSSION

The facts regarding this case are short and uncontroverted.

On or about January 1, 1989, the City moved its fire fighter dispatchers from No. 1 Engine House, where they had previously worked, to control dispatch in the Police Department.

This necessitated a change in the work schedules of the fire fighter dispatchers who went from a 33.6 hour work week to a 37.8 hour work week, therefore forcing them to work about 130 hours more per year than they previously did without any additional monetary compensation.

To deal with this situation, the parties in 1988 negotiated over said impact and they ultimately agreed to an August 23, 1988, Memorandum of Agreement which, inter alia, provided:

- (M) As an impact of this agreement, dispatchers will be required to work an additional 130 hours per year without an increase in compensation. Therefore, in order to mitigate that impact, the five current dispatchers will be allowed an additional ten (10) days off with pay in 1989 and eight (8) days off with pay in 1990. This will reduce the additional hours to 47.5 in 1989 and 64 in 1990. They will work the complete 130 hours in 1991 without additional compensation or extra time off with pay.
- These "impact" days in 1989 and 1990 shall be selected from among those days in which the sixth dispatcher is scheduled along with another dispatcher. If there are any days left over, they will be added to the employee's vacation bank. The "impact" days shall not be extinguishable and may be carried forward as a separate employee bank. They are separate and distinct from vacation days.

It is undisputed that the parties in said negotiations never discussed what would happen to any dispatchers who gave up their dispatcher duties and transferred to other jobs within the bargaining unit before the end of 1991.

That issue first surfaced when grievants Tilkus and Bailey respectively transferred from their dispatcher jobs in April and August, 1989, and when both of them claimed that they were entitled to a total of 18 impact days per the August 23, 1988, Memorandum. The City denied said requests, hence leading to the instant arbitration.

As I ruled at the hearing, it is clear that said Memorandum provided for impact days in order to compensate the dispatchers for working more hours over the duration of said agreement. That is why it expressly provides that "They will work the complete 130 hours in 1991 without additional compensation or extra time off with pay."

Well here, neither Tilkus nor Bailey will be working as dispatchers throughout this time span, thereby relieving them of any obligation to work the many additional hours that they would have worked had they remained dispatchers. That being so, and in the absence of any contrary agreement between the parties, it must be concluded that they have failed to meet the underlying conditions needed to qualify for all eighteen (18) impact days, i.e., working all of the additional hours in questions up to and including 1991.

In the absence of any understanding between the parties in negotiations over this particular issue, I therefore further find that justice will be best served by granting the grievants ten (10) impact days for 1989. The City therefore will credit them with said days, minus any impact days that they used up before they transferred out of their dispatcher jobs in April and August of 1989.

In light of the foregoing, it is my

AWARD

That the grievants Tom Tilkus and Cecil Bailey were entitled to ten (10) impact days in 1989, minus the above offset.

Dated at Madison, Wisconsin this 4th day of December, 1990.

By _____
Amedeo Greco, Arbitrator